IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIDNARY ORIGINAL CIVIL JURISIDICTION

COMPANY PETITION NO.130 OF 2005
CONNECTED WITH
COMPANY APPLICATION NO.15 OF 2005

In the matter of
Companies Act, 1956
(1 of 1956)

And

In the matter of Sections
391 to 394 of the
Companies Act, 1956

And

In the matter of Scheme of
Arrangement between Piramal
Holdings and Alpex
International Ltd. and
their respeoctive
shareholders

Piramal Holdings Ltd. .. Petitioner

Shri Virag V.Tulzapurkar with Rajesh Shah i/b Rajesh Shah & Co. for the petitioner

Shri C.J.Joy with R.C.Master & M.M.Goswami, Panel Counsel i/b Dr.T.C.Kaushik for Regional Director, Dept. of Company Affairs Maharashtra Mumbai

Shri Arshad Shaikh i/b Shri V.M.Parkar for Intervenors

Shri S.R.Rajadhyakshak, Shareholders present

WITH

COMPANY PETITION NO.131 OF 2005
CONNECTED WITH

COMPANY APPLICATION NO.68 OF 2005

In the matter of
Companies Act, 1956
(1 of 1956)

And

In the matter of Sections
391 to 394 of the
Companies Act, 1956

And

In the matter of Scheme of
Arrangement between Piramal
Holdings and Alpex
International Ltd. and
their respeoctive
shareholders

Alpex International Ltd. .. Petitioner

Shri Virag V.Tulzapurkar with Rajesh Shah i/b Rajesh Shah & Co. for the petitioner

Shri C.J.Joy with R.C.Master & M.M.Goswami, Panel Counsel i/b Dr.T.C.Kaushik for Regional Director, Dept. of Company Affairs Maharashtra Mumbai

Shri S.R.Rajadhyakshak, Shareholders present

CORAM: S.U. KAMDAR, J.
DATE : 5TH MAY, 2005

P.C. :

1. The present petition is filed for sanction of Scheme of Arrangement by which demerger is sought of petitioner company from the company known as Alpex International Ltd. The present petition is resisted by Union Known as Roche Fine Chemicals Kamgar Union. They

have moved the company application being Company Application (L) No. of 2005. By the said application applicant states that they should be added as a party to the present petition and allowed to be intervene in the present petition. I have heard the learned counsel for the workers union in support of the application.

2. In my opinion the said application is wholly misconceived. Firstly, because the application which has been initiated by Union known as Roche Fine Chemicals Kamgar Union is not the Union of the workers of either of the company for which the present petition for demerger is filed. However, the learned counsel for the Union has vehemently contended that they were original employees of Piramal Holdings Ltd. and subsequently transferred to the company known as Nicholas Piramal India Ltd. The said company is neither petitioner company nor the company proposed to be demerged being Alpex International Ltd. It has been contended by the learned counsel for the Union that originally they were employees of Roche Finance Chemicals and thereafter they became employees of Piramal Holdings Ltd and thereafter they were transferred to Nicholas Piramal India Ltd. It has been

therefore contended that they are necessary and proper party and they should be heard and be permitted to intervene in the present petition. The union seeks to oppose the scheme of demerger of these two companies. Secondly, the contention on the part of the learned counsel that merely because they were original employees of Piramal Holdings Ltd and now they are employees of Nicholas Piramal India Ltd., they should be heard because according to him plant and machinery which belongs to Piramal Holdings Ltd is being used by Nicholas Piramal India Ltd. and therefore they are effected has no substance. The learned counsel has not been able to show that the Union or any member of the Union is affected or likely to be affected by the said scheme of demerger. Mr.Tulzapurkar, the learned counsel for the petitioner has drawn my attention to the Order and Judgment of the Division Bench of this court in the case of Shree Niwas Girni Kamgar Kruti Samiti Vs. Rangnath Basudev Somani and Ors. in Appeal No.521 of 2004 with Notice of Motion No.2381 of 2004 with Notice of Motion No.2492 of 2004 decided on 21.03.2005. In para 41 of the said judgment the Division Bench has held as under:

> In our opinion the intervenors have no locus-standi in the present proceedings under section 391 read with section 393 of the Companies Act. The intervenors are neither the shareholders nor the creditors of the Company and there is nothing to show that they are interested in the affairs of the Company. In a scheme under Section 391 and 393 of the Act, the person who is not a creditor or a shareholder of the Company, has no right to appear in the proceeding (See : S.E.B.I. v. Sterlite Industries (India) Ltd., 2003 (vol.113) Company Cases, 273 (Bom) and N.M.Shegal Ltd. V. Sanmati Trading Investments Ltd., (1997) 3 Comp LJ 80 (Del.).

3. The Judgment of the Division Bench categorically makes clear that the union or workers union has no locus standi to intervene in the proceedings u.s.391 to 394 of the Companies Act. He has also drawn my attention to the Judgment of the apex court in the case of Hindustan Lever Employees' Union V. Hindustan Lever Ltd. and Others reported in 1995 Company Cases Vol.83 Pg. 30 and has contended that the union cannot be the intervenor in the present proceedings. In my opinion apart from the fact that in view of the aforesaid judgment of the Division Bench the applicants are neither necessary or proper party not they are entitled to intervene in the present

proceedings but in the present case there is an additional reason for which I am required to dismiss the Chamber Summons i.e. applicant's members are not the employees of the petitioner company. In view thereof, application is dismissed with cost quantified at Rs.1500/-.

4. In so far as the scheme of demerger is concerned Regional Director has filed an affidavit dt.13.4.05 and the learned counsel for Regional Director has stated that there is no objection to the sanction of the scheme and there are no other objections either from the shareholders or creditors. The one shareholder who has opposed the scheme has also filed a letter dt.29.3.05. Same is taken on record. The ground for opposing the scheme by him is that he was not given copies of necessary documents by the company. The objection is wholly without any merits. Provision relating to the inspections of the record are duly prescribe under the Companies Act. It was open for the said share holder to apply for such inspection as per the provisions of the law. In any event he has already opposed the scheme at the meeting of the

shareholders. The said objection raised by the shareholder was considered but overruled and rejected by overwhelming majority. In view thereof, the present petition is required to be allowed and accordingly made absolute in terms of prayer clause (a) to (k)